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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

IN RE: MGM RESORTS  
INTERNATIONAL DATA BREACH  
LITIGATION

Case No. 2:20-cv-00376-GMN-NJK

**Order**

[Docket No. 156]

Pending before the Court is a motion regarding a discovery dispute. Docket No. 156.

“The Parties have been negotiating a Protective Order that would govern discovery since December 2022 and have reached an impasse on the provisions relating to the clawback of documents pursuant to Federal Rules of Civil Procedure 502(d) and 26(b)(5)(B).” Docket No. 156 at 3. In particular, “the Parties have reached an impasse about what information they may present to the Court when challenging the assertion of privilege over documents that already have been produced and reviewed by the other side.” *Id.*

Defendants are hereby **ORDERED** to respond to this motion by March 30, 2023. The Court does not require argument at this time as to the procedures in dispute themselves, but rather only as to why party and judicial resources should be expended getting into the weeds of the procedures for theoretical future motion practice that may never occur rather than leaving that issue for another day in the rare<sup>1</sup> event clawback motion practice is required in this case. *See id.* at 4 (“In an effort to break through this impasse, Plaintiffs have repeatedly proposed that the Parties submit the portion of the protective order upon which they agree and then separately negotiate as

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<sup>1</sup> In the Court’s experience, clawback motion practice is very uncommon.

1 to the clawback procedures or leave that issue for resolution in the context of a specific privilege  
2 challenge, should one arise” (emphasis added)).

3 IT IS SO ORDERED.

4 Dated: March 29, 2023

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Nancy J. Koppe  
United States Magistrate Judge  
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